

### **TITLE 3. FOOD AND AGRICULTURE**

**NOTICE IS HEREBY GIVEN** that the Department of Food and Agriculture (Department) is proposing to take the action described in the Informative Digest. The Department will hold a public hearing regarding this proposal as follows:

Department of Food and Agriculture  
Animal Health and Food Safety Services  
Milk and Dairy Food Safety Branch  
1220 N Street  
Sacramento, CA 95814  
Telephone (916) 654-0773; Fax (916) 653-7512

**February 3, 2009**  
**10:00 a.m. – 12:00 p.m.**  
**1<sup>st</sup> Floor, Main Auditorium**

Any person interested may present statements or arguments in writing relevant to the action proposed to the person designated in this Notice as the contact person beginning December 19, 2008 and ending at 5:00 p.m. February 2, 2009, or comments may be submitted at the public hearing. Following the public hearing, the Department, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by sections 407, 35781, and 36601 of the Food and Agricultural Code, and to implement, interpret or make specific sections 32509, 32510, 32511, 32731, 32761, 35602, 36123, and 36331, Food and Agricultural Code, the Department proposes to amend section 625 of Article 21, Chapter 1, Division 2, of Title 3 of the California Code of Regulations, as follows:

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Existing law, section 35781 of the Food and Agricultural Code, authorizes the Department to specify the quality standards for market milk. The Department, by regulation, may require different standards for raw market milk for pasteurization from the standards specified in law if it determines, after an administrative hearing, that the standards are necessary to protect or improve milk quality.

Existing law, section 36601 of the Food and Agricultural Code, authorizes the Department to specify, by regulation, the quality standards that are necessary for any product which is defined in Division 15 of Part 1 of said Code.

Pursuant to the above sections of law, the Department has in place section 625 of Article 21, Chapter 1, Division 2, of Title 3 of the California Code of Regulations to specify the standards for somatic cell counts in milk.

This proposal updates section 625 to specify somatic cell count standards for market milk from cows and goats, and deletes references to the California Mastitis Test (CMT). The Pasteurized Milk Ordinance, published by the United States Food and Drug Administration, no longer references the CMT as an official method for determination of somatic cells in milk.

The Department is incorporating by reference in this proposal the Standard Methods for the Examination of Dairy Products, 17<sup>th</sup> Edition (2004), published by the American Public Health Association. This proposal will bring California into conformity with federal requirements of the Food and Drug Administration as published in the Grade "A" Pasteurized Milk Ordinance, 2005 Revision.

Additionally, this proposal contains organizational and formatting changes for clarity purposes.

#### Comparable Federal Regulations

There are comparable federal standards for milk as published in the Grade "A" Pasteurized Milk Ordinance. However, the Department may, by regulation, adopt quality standards for market milk pursuant to Food and Agricultural Code section 35781.

#### **FISCAL IMPACT ESTIMATES**

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Department has made an initial determination that the proposed regulatory action will not have a significant, statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses: The Department has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

Cost Impacts on Private Persons or Entities: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

### EFFECT ON SMALL BUSINESS

The Department has determined that the proposed regulations would affect small businesses.

### CONSIDERATION OF ALTERNATIVES

The Department of Food and Agriculture must determine that no reasonable alternative which is considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing, or during the public comment period.

### INITIAL STATEMENT OF REASONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all the information upon which the proposal is based, may be obtained by contacting the persons named below or by accessing the Department's website as indicated below in this Notice.

### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the persons named below.

Any person may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact persons named below or by accessing the website listed below.

## CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations, or any written comments, facsimiles or electronic mail concerning this proposal are to be addressed to the following:

Name: Kristen Dahl, Agriculture Program Supervisor  
Address: Department of Food and Agriculture  
Milk and Dairy Food Safety Branch  
1220 N Street  
Sacramento, CA 95814  
Telephone No.: (916) 654-0773  
Fax No.: (916) 653-7512  
E-mail address: KDahl@cdfa.ca.gov

The backup contact person is:

Name: Nancy Grillo, Associate Analyst  
Address: Department of Food and Agriculture  
Animal Health and Food Safety Services  
1220 N Street, Room A-114  
Sacramento, CA 95814  
Telephone No.: (916) 651-7280  
Fax No.: (916) 653-4249  
E-mail address: NGrillo@cdfa.ca.gov

Website Access:

Materials regarding this proposal can be found by accessing the following Internet address: <http://www.cdfa.ca.gov/ahfss/regulations.html>